IN THE HIGH COURT OF JUDICATURE AT PATNA
MA No.294 of 2005.
---

1. Most. Raj Kumari Kuer wife of Late Satish Rajan Lal, R/0 village Ghura Purandar,P.O. and P.S. Tanwa District Aurangabad, Presently resident of Old G.T.Road, Aurangabad, P.O. & P.S. Tanwa, District Aurangabad.
2. Sanjay Kumar Singh son of Shri Shambhu Singh, R/0 village Malhara, P.S.Deo District Aurangabad. ……. ……. Appellans.

Versus

1. The State of Bihar, through the Collector, Aurangabad.
2. Sub-Registrar, Registration Office, Aurangabad.
3. The Director, Bihar State Handloom Workers Co-operative Society, Bihar, Patna.
4. Arjun Sharma son of Late Alakhdeo Sharma.
5. Prabha Devi wife of Arjun Sharma,

Both Residents of Baretha, P.S.Kingar P.O. and District Jehanabad, Presently resident of Old G.T.Road, Aurangabad P.O. Aurangabad, P.S. Aurangabad(T) District Aurangabad..Respondents.

For the Appellants : Mr.S.S.Dwivedi, Sr. Adv.
Mr. S.Dwivedi, Adv.
For the Respondents : M/s.V.Nath, Ashok Kumar Singh, Satish Kumar & Waliur Rahman,Advs.

- - - - -

WEB COPY NOT OFFICIAL

10 26.11.2008 The appellant No.1 Mostt. Raj Kumari Kuer has filed a suit against the respondents with a prayer for declaring the sale-deed dated 29th November 2003, involving the suit land, purported to have been executed by her in favour of respondent Nos.4 and 5 (defendant Nos. 4 and 5) was forged and fabricated and nonest in the eye of law and that the defendant Nos. 4 and 5 have no right to get it registered. The said sale-deed dated 29th November 2003 was in the process of registration in the Registry Office.

The appellant No.2 who had intervened and was transposed as plaintiff No.2 in the suit had claimed that he had purchased the suit land from the appellant No.1 (Plaintiff No.1) on the basis of earlier agreement dated 12th November 2003 to sell and the sale-deed was registered on 12th December 2003.

During the pendency of the suit, appellant/plaintiff no.2 filed a petition praying for injunction restraining the Respondent Nos. 1 and 2 (defendant Nos. 4 & 5) i.e. Registrar cum-District Magistrate, Aurangabad and Sub-Registrar, Sub-Registrar, Aurangabad from registering the aforesaid deed dated 29th November 2003.

On hearing, the learned trial court did not find a fit case for grant of injunction as prayed by the appellant and the prayer was rejected by the impugned order dated 15th July 2005 of the Sub-Judge-IV, Aurangabad as passed in Title Suit No. 119 of 2004/93 of 2005 and which order is subject to this appeal.

Learned counsel for the appellants submitted that the appellant -1 (plaintiff No.1) had never executed the sale sale-deed dated 29th November 2003 and that the appellant No.1 had been kidnapped and kept confined by the Respondent Nos.4 and 5 and forcibly her R.T.I. was obtained on forged and fabricated sale-deed and that she never appeared before the Sub-Registrar or Registration Office for execution of sale-deed. It was also submitted that in view of her confinement the appellant No.1 had also filed a criminal case under Aurangabad Town P.S.Case No. 508 of 2003 under Sections 341, 342, 345, 346, 419 and 420 I.P.C. against the defendants and it was also submitted in course of argument that the plaintiff No.1 had also put her objection on 29th March 2004 before the Registrar i.e. District Magistrate, Aurangabad in the matter of Registration of said sale deed dated 26th November 2003 but the objection was dismissed vide order dated 10th August 2004 and it was further submitted that

WEB COPY NOT OFFICIAL

against the order dated 10th August 2004 of the Registrar cum-District Magistrate, Aurangabad, the appellant No.1 has filed C.W.J.C.No. 14506 of 2004 which is pending before this Court. Learned counsel submitted that since the sale-deed dated 29th November 2003 in favour of Respondent Nos. 4 and 5 is forged and fabricated and the thumb impression of appellant No.1 having been obtained on it under coercion and threat the Respondent Nos. 1 & 2 i.e. Registrar and the Sub-Registrar be restrained from registering the deed.

Learned counsel for the respondents submitted that the said sale-deed dated 29th November 2003 was lawfully executed by the appellant No.1 (Plaintiff No.1) and she had also appeared before the Sub-Registrar, Registration Office, Aurangabad and had admitted to have executed the sale-deed but due to deficiency in stamp duty of Rs.26,500/-, the sale-deed could not be registered. It was further submitted that the said deficit stamp duty of Rs.26,500/- together with penalty of Rs.4,000/- was deposited by defendant nos. 4 and 5 and then the deed was put for registration and appellant No.1 (plaintiff No.1) being in collusion with plaintiff No.2 did not appear for registration and put frivolous objection in the execution under some greed and temptation by the appellant No.2 (Plaintiff No.2) for higher amount for the same land for which subsequent deeds were also prepared. In this context learned counsel for the respondents further submitted that the respondent Nos. 1and 2 (defendant Nos.1 and 2) had filed their W.S. before the learned trial court and in Para-9, 10 and 11 of the W.S., they categorically stated that the plaintiff No.1 Raj

WEB COPY NOT OFFICIAL

Kumari Kuer had appeared in the registration Office on 29th November 2003 and on interrogation she had admitted execution of sale-deed dated 29th November 2003. It was further submitted that the Plaintiff No.1 had put frivolous claim and that too at a very belated stage as late as on 29th March 2004 and after hearing both the sides, the objection was dismissed on 10th August 2004 and that the appellant (plaintiff) has also filed writ application before the Court under C.W.J.C.No.14506 of 2004 which is still pending. It was argued that the objection of the plaintiff-appellant has already been rejected earlier by a competent authority in this regard and the same is subject to a writ application which is still pending before this court and that granting injunction to the appellant at this stage would be just like prejudging the issue under the said writ application and that the appellant-plaintiff has no cogent and reasonable ground in support of her claim.

WEB COPY NOT OFFICIAL

The appellant-plaintiff wants injunction against the officials i.e. the Registrar and the Sub-registrar who have already heard and decided the plaintiff's objection in the same matter and which matter is pending adjudication under the said writ application under C.W.J.C.No.14506 of 2004 and that the matter raised by the appellant under the prayer for injunction is still under scrutiny of the trial court which requires to be examined in detail. It was also argued that the plaintiff-appellants put her claim for grant of injunction and she had never executed sale-deed due to 29th November 2003 and that she had never appeared before the Sub-registrar for accepting the execution of

the deed but these all grounds fall flat in view of categorical assertion of the respondent Nos. 1 and 2 (defendant Nos. 1 and 2) who are Govt. Officials and who were in course of performance of their official duty at the relevant time and who have stated that the plaintiff No.1 had appeared before the Sub-Registrar of the Registration Office and she had admitted the execution of sale-deed dated 29th November 2003.

Thus hearing, I fail to find the prima facie case for grant of injunction as prayed by appellant No.2 (plaintiff No.2). In such view of the matters, the learned court below was perfectly justified in rejecting the prayer for injunction. There being no merit in this appeal the same is dismissed.

WEB COPY NOT OFFICIAL

Jay/ **(C.M.Prasad,J)**